

**IN THE
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

FILED

NOV 13 2017

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____ DEPUTY

CIVIL ACTION NO.: 5-17-CV-00908-XR

Susan Rebecca Cammack,

Plaintiff

V.

WELLS FARGO BANK,

CHASE BANK,

BANK OF AMERICA,

BANK OF NEW YORK MELLON,

DEFENDANTS

**PLAINTIFF'S RESPONSE
TO DEFENDANT'S MOTION TO DISMISS AND
PLAINTIFF'S SUMMARY JUDGMENT WITH MEMORANDUM OF LAW**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, Susan Rebecca Cammack, **feme sole, Plaintiff** in the above styled and reference number and files her Original Response To The Defendant's Summary Judgment and Plaintiff's Summary Judgment With Memorandum of Law .

The **Defendants**, through Counsel of record, has filed with the Court a document proposing to establish jurisdiction over the subject matter and the plaintiff. First of all, counsel of record, **KATHRYN B. DAVIS** clearly informs the Court that she is, "**ATTORNEY FOR**

DEFENDANTS BANK OF AMERICA, N.A. AND BANK OF NEW YORK MELLON", page 15., The Court should also take judicial notice that **KATHRYN B. DAVIS DOES NOT ARGUE FOR NOR REPRESENT WELLS FARGO BANK AND CHASE BANK**, as noted in her Memorandum of Law. Yet, she seeks to have **Plaintiff's** claims against **WELLS FARGO BANK and CHASE BANK**, dismissed. **KATHRYN B. DAVIS**, is not counsel for **WELLS FARGO BANK nor CHASE BANK**, thus, she (**KATHRYN B. DAVIS**) lacks Standing to complaint, interferes in legal issues which she is not a part of, nor has first-hand knowledge of, nor has any first-hand knowledge of the original events, nor does she, nor does **BANK OF AMERICA, N.A. NOR BANK OF NEW YORK MELLON** have any wet-ink documents to support their allegations in support of dismissal. Dismissal is not warranted and **Defendants' Motion For Dismissal** is not warranted. However, **Plaintiff's** (**Susan Rebecca Cammack**) **Motion For Summary Judgment**, traditional and non-evidence, should be granted for the reasons stated above, and without first-hand knowledge, this Court should **Order** the **Defendants BANK OF AMERICA, N.A. AND BANK OF NEW YORK MELLON** to present to the Court the original wet-ink documents to assist the Court in determining the defendant's' empty and unsupported allegations of entitlement to dismissal, and to support a claim of their Standing. Plaintiff will go out on a limb and unequivocally state, neither **BANK OF AMERICA, N.A. NOR BANK OF NEW YORK MELLON** can produce the original nor can they prove first-hand knowledge. What **BANK OF AMERICA, N.A. AND BANK OF NEW YORK MELLON** can show is that they are Debt Collectors, without Standing.

Furthermore, **Plaintiff** **Susan Rebecca Cammack**, will show beyond dispute, that **WELLS FARGO BANK and CHASE BANK, BANK OF AMERICA, N.A., BANK OF NEW YORK MELLON, MORTGAGE ELECTRONIC REGISTRATION SYSTEMS (MERS)** are guilty of the criminal offense under the **R.I.C.O. Act**, and are double and triple dipping, that over 2.3 million dollars have been made on the alleged loan made to the **Plaintiff** (\$500,000.00 USD). The **Defendants** are not entitled to a Dismissal. **Plaintiff** **Susan Rebecca Cammack**, is entitled to **Summary Judgment**, the **Defendants WELLS FARGO BANK and CHASE BANK**, have filed no response, thus, **Summary Judgment by Default** should be granted to the **Plaintiff**

Susan Rebecca Cammack. **Summary Judgment** against the **Defendants BANK OF AMERICA, N.A. AND BANK OF NEW YORK MELLON** should *also* be granted. The **Defendants BANK OF AMERICA, N.A. AND BANK OF NEW YORK MELLON**, have presented nothing neither has proven Standing, first-hand knowledge, nor presented any original documentary evidence, nor shown beyond being and acting as Debt Collector, anything to prove entitlement nor again, Standing.

Neither the **BANK OF AMERICA, N.A.** nor the **BANK OF NEW YORK MELLON** were or are the "Lender", nor can they prove to the Court otherwise. Common sense, if not the law, shows that the **Defendants BANK OF AMERICA, N.A. AND BANK OF NEW YORK MELLON**, without being the Lenders-in-fact, do not have Standing to ask nor request the Court for anything against the **Plaintiff**. If the **BANK OF AMERICA, N.A. AND BANK OF NEW YORK MELLON** suffer any damages or losses, let them complain to the Lender, not the **Plaintiff**. **Plaintiff** had no dealing with either the **BANK OF AMERICA, N.A.**, or **WELLS FARGO BANK**, other than to challenge title.

This Court should not be deceived by the title of "Bank of", neither were they a part of the original transactions. The title of "Bank of" in this case, is equivalent to "Debt Collectors" trying to collect on a non-existing debt. This Court should request or **Order** the "Bank of" to show the Court where **Plaintiff** was responsible for any losses or damages incurred by the "Bank of" because of **Plaintiff's** act or omissions. They can show none. The **BANK OF AMERICA, N.A. AND BANK OF NEW YORK MELLON** submissions are simply genuine hearsay.

JURISDICTION

**JURISDICTION SHOULD BE AND IS REQUESTED UNDER
STATUTORY AND EXCLUSIVE EQUITY JURISDICTION**

The Jurisdiction of the Court is not challenged on the ground of diversity of the defendant's geographic locations, but the jurisdiction of Standing as to the **BANK OF AMERICA, N.A. AND BANK OF NEW YORK MELLON** as Debt Collectors and **MERS** is challenged by the **Plaintiff**. The Court has jurisdiction over the **Plaintiff**, and is not challenged in-so-far as the **Plaintiff's** geographic location that being in the State of Texas, Kerr County, Texas. The Court also has jurisdiction under **Equity Law**, The Court's review is not bound by the limitation of Statutory Laws and may review the issues under the **Equity Law**. **Equity Law** applies to Trust and Contract laws, and this case involves Contract law, the breach of contract, among other violations. **Plaintiff** Susan Rebecca Cammack invokes the **Equity Law** and jurisdiction of this Court, as well as the Statutory jurisdiction. As this Court knows when **Equity Law** conflicts with a Statutory Law, **Equity Law** will prevail.

Note:

The **Defendants** *admit* they are not the "Lender, page 2. The **Defendants** may, as they have, directed the Court to various documents, places, case laws, etc., but the **Defendant's** lack of Standing makes the **Defendant's** entire pleading worthless. They lack Standing to even challenge what occurred between the **Plaintiff** and the Lender. The **Defendants** have no first-hand knowledge, suffer no losses by **Plaintiff's** acts or omission, have no Standing to complain about what occurred between the **Plaintiff** and Lender, have no knowledge of the original loan, nor the check, nor of the breach of contract between the Lender and **Plaintiff**, **Defendants** have no knowledge of the original agreement, nor of the fraud committed by the Lender, have no first-hand knowledge of the numerous state and federal law violations committed by the Original parties, i.e. **WELLS FARGO BANK and CHASE BANK**, but they should know, and if they do, it is best for the left hand not to know what the right hand is doing. Why? Because the **Defendants** are shareholders of the *same entity*! By acting ignorant of the original facts, they do not have to reveal to this Court the criminal acts at the **Beginning** and base their arguments to the Court at the **Middle**, thus, capitalizing at the **End** without the Court knowing the true facts, or Full Disclosure. All prior decisions made by all previous courts based upon the arguments of the Middle, are ultra-vires-void. Where State Court's decisions are in

conflict with federal laws, the Supremacy Clause controls. In this case, state court's decisions are based upon partial disclosure of the Defendant's 'criminal acts and should be considered void. Under **Equity Law**, the **Defendants** may not capitalize on their own errors, criminal acts and having unclean hands. The **Plaintiff** Susan Rebecca Cammack, is the party which suffers the wrong, the losses, and damages by the acts of the **Defendants** with unclean hands. Justice can only be found in **Equity**.

The court has jurisdiction to apply **28 U.S.C. Section 297**, thus, not limited to Statutory Laws, nor post-1933 Constitutional revisions, applications and limitations.

An important note for consideration of this Court is that the website, www.mersinc.org" MERSCORP lists BANK OF AMERICA, WELLS FARGO BANK, CHASE BANK, as shareholders of MERS. It is obvious that the Defendants are involved in a nationwide criminal enterprise, which through fraud and smoke screen kept the judiciary system in the dark and deprives the Citizens of their Land/properties.

SUMMARY JUDGMENT

Summary Judgment is proper "if the pleadings, depositions, answers to interrogatories and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." **Fed. R. Civ. P.56(c); French v. Gill, 252 S.W.3d748 (Tex. App.-Texarkana 2008, pet. denied).** A dispute about a material fact is genuine, "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party."

"Material facts" are "facts that might affect the outcome of the suit under the governing laws **Anderson v. Liberty Lobby Inc., 447 U.S. 242,248, 106 S. Ct. 2505(1986).**

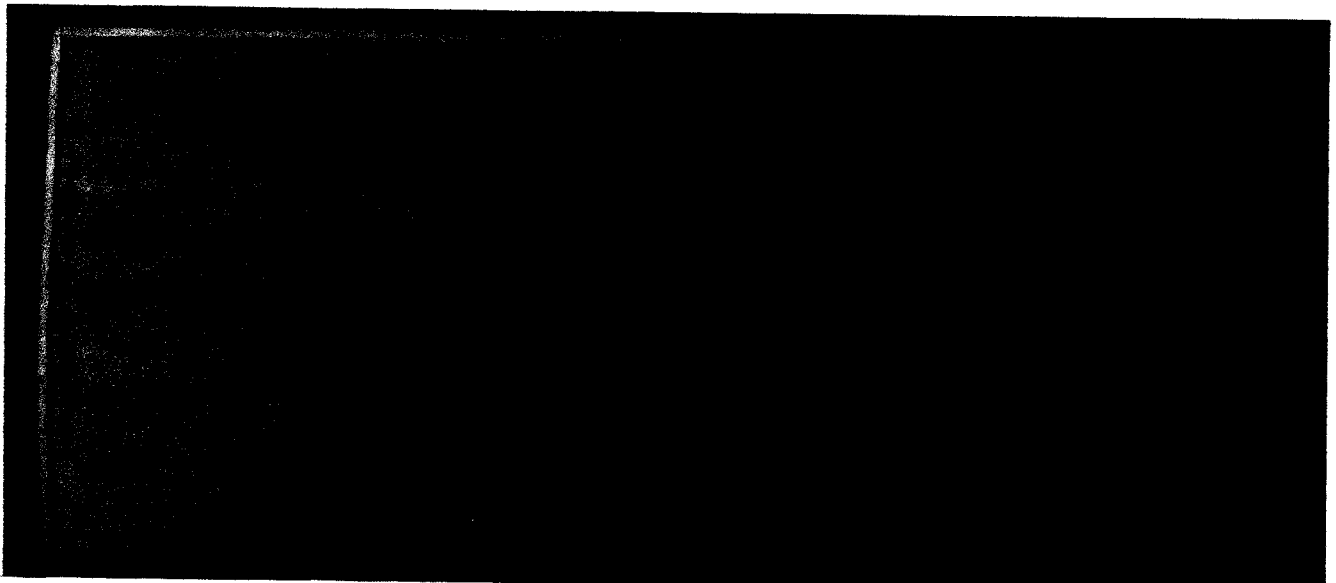
When considering opposing motions for **Summary Judgment**, neither of which alleges a genuine issue of material fact, the court is free to render judgment in favor of the party entitled to it as a matter of law. (Id)

The **Defendants** have not presented any evidence which would entitle them to the granting of their **Motion for Dismissal**. The **Defendants** are co-conspirators seeking to profit from this court's Judgment without revealing to the Court evidences of entitlement other than hearsay, and through misrepresentation of the truth. **The Defendants are all shareholders of the same entity**, covering each other's mistakes, fraudulent schemes, double and triple dipping and violating several other state and federal laws, at the expense of the average consumer.

FACTS

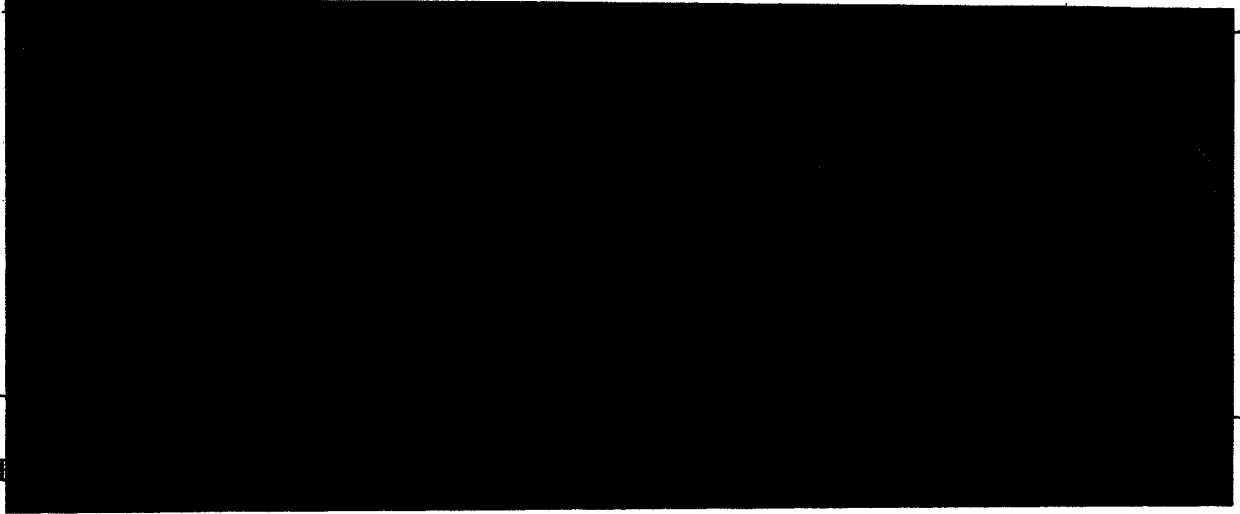
(UNKNOWN TO THE COURT)

Plaintiff Susan Rebecca Cammack will direct the Court to a copy of the *Original* Check issued by **FIDELITY ABSTRACT & TITLE COMPANY's** account at/of the **Defendant WELLS FARGO BANK TEXAS, N.A. /a/k/a WELLS FARGO BANK N.A.** Check number 54127, payable to Gian Gabriele Foschini **and** Susan Cammack Foschini. The Court should take judicial notice the "**and**", which becomes a **condition-based** check. The **condition** being that the **check requires two signatures** before the check can be honored by a bank for payment. This is a form of a contract, it **created a contract**. (Attachment/Exhibit A.)





Plaintiff Susan Rebecca Cammack, now directs the Court to the amount of signatures on the reverse side of the conditional/contract check. The Court will note that only **one signature** appears at the time that the check was honored by the Defendant **CHASE BANK**.



The Defendant **CHASE BANK** broke the contract, honored the check without the required two signatures. The Defendant **WELLS FARGO BANK** was obligated by *law* to return the check to the Defendant **CHASE BANK** to obtain the missing signature. Defendant **WELLS FARGO BANK** did not do so, breaking the Contract again as Defendant **CHASE BANK** had done.

The case involves the question of a bank's liability, when it pays checks and allows withdrawal on less than the required number of signatures.

...holding that a lack of a required signature where more than one signature is required is not an unauthorized signature under 4.406 of Tex. Bus. & Com. Code.

The relationship between a bank and its depositor is that a debtor and creditor with title to the deposited funds passing to the bank. The bank is under the duty of disbursing the funds on deposit in accordance with the directions of the depositor...in suits against a bank to recover

deposits, the burden of proving payment under authority from the depositor is on the bank. (**Mesquite State Bank v Professional Invest. Corp.**, 488 SW2d 73, 75 (Tex. 1970).

Generally, whenever the Bank pays checks on less than the required number of signatures the Bank is liable on the theory of negligence, breach of contract, or under the Uniform Commercial Code. However, the Bank can escape liability in some situations under the theory of lack of consideration, the depositor's failure to examine statements and notify the Bank under common law or under the U.C.C. provisions, where there is no loss or damage to the depositor, or under the defense of acquiescence in or notification of payment, estoppel or waiver of the signature requirement. (7 A. L. R. 4th 665 (Annot.)

When a bank's customer directs the bank to pay only those checks which bear two signatures, a two signature check is the '*authorized signature*' of the customer. The customer has not authorized the bank to pay one signature checks, so a check with only one signature does not have an *authorized* signature.

[Section 1.201 (43)] of the Texas. Bus & Com. Code defines an unauthorized signature as: "**Unauthorized signature or endorsement means one made without actual, implied or apparent authority and includes a forgery.**"

...what a reasonably prudent bank would have done under similar circumstances. **Thompson v. Gibson**, 156 Tex. 593, 298 S.W. 2d 97 (1957), reversed per curiam, 355 U.S. 18, 78 S. Ct. 2.

It is unclear at this point whether co-conspirator **Defendant WELLS FARGO BANK** honored payment to **Defendant CHASE BANK** even though the check only contained one of two signatures. Plaintiff Susan Rebecca Cammack, claims that **Defendant WELLS FARGO BANK** did not honor payment to **Defendant CHASE BANK**, thus, **Defendant WELLS FARGO BANK** profited \$428,531.01USD by dishonor of the check requiring *two* signatures. If **Defendant WELLS FARGO BANK** *did* honor the payment to **Defendant CHASE BANK**,

then **Defendant WELLS FARGO BANK** violated *numerous* state and federal laws, and becomes liable to **Plaintiff Susan Rebecca Cammack**.

Defendant CHASE BANK was left holding a dishonored check in the amount of \$428,531.01. **Defendant CHASE BANK** paid out \$428,531.01 that was not legally recoverable which is **Defendant CHASE BANK's fault**. Was it a real loss to the **Defendant CHASE BANK**? The answer is no. Because **Defendant CHASE BANK** created a \$428,531.01 book entry gain before honoring the check.

FIDELITY ABSTRACT & TITLE COMPANY suffered no losses for the following reasons;

1. The amount of the alleged loan of \$428,531.01 from its **WELLS FARGO BANK** Account was never drawn out of the account, thus,
2. **FULL SPECTRUM LENDING, INC.**, obtained, by deception, a **Promissory Note** value of \$500,000.00 USD on book entry profit.

An additional \$800,000.00 plus profit has been made by Debt Collectors thus far. All of the millions of dollars profits stems from violations of GAAP (**General Accepted Accounting Principles**), Fair Debt Collection Practices Act; false, deceptive, and misleading representation, breach of contract, breach of agreement, that there existed no legal binding contract between **Plaintiff Susan Rebecca Cammack** and the **Defendants** from the second which **Defendant CHASE BANK** honored the check, without her *required* signature.

The **Defendants WELLS FARGO BANK** and **Defendant CHASE BANK** did *not* act in good faith required by law. The burden to prove lack of good faith is on the bank customer. Id. Sec. 4.406 (e) (If the customer proves that the bank did not pay the item in good faith, the preclusion under Subsection (d) does not apply.") The test for good faith is the actual belief of the party, not the reasonableness of that belief. (Id at 835.) Good faith, however, is presumed, and the customer

bears the burden of proving the contrary. (**Canfield v. Bank One**, 51 S.W. 3d 828, 837 (Tex. App.-Texarkana 2001, pet. denied).

Failed to exercise honesty-in-fact and failed to observe reasonable commercial standards of fairness. **Tex. Bus. & Com. Code Ann. Section 1.201 (b) (20)**.

Good Faith is defined as "honesty-in-fact and the observance of reasonable commercial standards of fair dealing." **Tex. Bus. & Comm. Code Sec. 1.201 (b) (20)**. The comment to the code suggests that "fair dealing" is concerned with the fairness of conduct rather the care with which an act was performed. **Tex. Bus. & Com. Code Ann. 3.103 cmt.5 (Vernon 2002)**.

Both **Defendants WELLS FARGO BANK** and **Defendant CHASE BANK** knew of the breach of contract, breach of agreement, false and deceptive acts which they were committing, but, being shareholders of the *same entity* each profit from each other's mistakes, **and** fraudulent acts.

It is no wonder why the attorney for **Defendant BANK OF AMERICA, N.A. and Defendant BANK OF NEW YORK MELLON**, did not want to mention to the Court, nor present a defense for **Defendant WELLS FARGO BANK and Defendant CHASE BANK**.

As the Court has seen, the **Defendants' WELLS FARGO BANK and CHASE BANK, BANK OF AMERICA and BANK OF NEW YORK MELLON** are coming into this Court with "unclean hands" and the "unclean hands doctrine" applies to this case.

On the doctrine of coming into court with clean hands, see **4 A.L.R.63, 64, 80** under the subject, "He who comes into equity must come with clean hands." Still the courts do not buy that rule sanction or approve the conduct of one who has engaged in such business, who comes in court and sets up his own wrong to avoid his obligations. The courts are no more in favor of aiding the one to enforce such a contract than they are disposed in favor of the one with whom he has linked to violate the law. The **Defendants** had the obligations imposed upon them by state and

federal laws to honor the contract created by the two signature check. The **defendants** own illegal acts and omissions created the need for this prolong litigation. Yet, the **Defendants** now come to this Court with unclean hands wanting to justify their crimes.

There is no harm suffered by the **Defendants**, in fact, the **Defendants** have gained profit from each other's breach of contract, breach of agreement, and seek to profit even more, by having this Court to justify their wrongs and crimes.

The **Defendant BANK OF AMERICA, N.A. and Defendant BANK OF NEW YORK MELLON** have no Standing in this matter, they possess no rights neither under Statutory Law nor under the Laws of **Equity**. **Plaintiff** Susan Rebecca Cammack, has shown that the **Defendants** are guilty of various violations of Statutory Laws, state and Federal, as well as **Equity Law**. This Court has jurisdiction to review the subject matter under both Statutory Law and this Court has exclusive **Equity Jurisdiction** to review the Defendant's' **Motion Under Equity Law**. The **Plaintiff** Susan Rebecca Cammack, request and invokes this Court Jurisdiction **Exclusive Equity Jurisdiction**. The **Plaintiff** Susan Rebecca Cammack suffers harm where she created none to the **Defendant**. **Plaintiff** Susan Rebecca Cammack will suffer harm should the Court grant the **Defendant's Motion to Dismiss**. The evidence presented to the Court by **Plaintiff** Susan Rebecca Cammack proves she proceeds in clean conscious, owing nothing under Statutory Law or under **Equity Law**.

Can this Court turn a blind eye to the check presented to the Court which is without an authorized Signature, and do so in good conscious? Can this Court turn a blind eye to the injustice committed by the **Defendants**? Simply by following rules, where even under Statutory Laws the **Defendants** are guilty of fraud and breach of contract. When even Under **Equity Law** the **Defendants** have profited from their own evil? Where statutory law conflicts with **Equity Law**, **Equity Law** prevails.

Perhaps, **Plaintiff** Susan Rebecca Cammack may be guilty of violating **statutory rules, and for that she apologizes. She violated no Statutory Laws or Equity Laws. SHE IS NOT GUILTY OF CREATING HARM, OR DEPRIVING ANY BANK OF THEIR JUST DUE. NO BANK HAS SUFFERED HARM OR LOSSES. IN FACT THEY HAVE PROFITED FROM THEIR OWN ERRORS.**

The decisions of the lower courts have not addressed the issues, because the Courts have not ever had the whole truth. The **Defendants** have skipped over everything which would prove they are not entitled to relief. The evidence presented now is self-proving evidence that the **Plaintiff** Susan Rebecca Cammack has:

1. Done No Harm;
2. That the **Defendants WELLS FARGO BANK and CHASE BANK** are the guilty parties;
3. That the **Defendants WELLS FARGO BANK and CHASE BANK** profit from the breach of Contract;
4. That the **Defendants WELLS FARGO BANK and CHASE BANK** suffered no losses;
5. That the **Defendants WELLS FARGO BANK and CHASE BANK** are shareholders of the same entity known as **MERS**;
6. That **WELLS FARGO BANK, CHASE BANK, and BANK OF AMERICA** are shareholders of **MERS** and involved in organized criminal action;
7. **BANK OF AMERICA, N.A. AND BANK OF NEW YORK MELLON**, are debt collectors without Standing.

CONCLUSIONS/PRAYER

For the reasons stated above, but not limited to the same, the **Defendant's Motion for Dismissal** should be denied in all things, and the **Plaintiff's Motion for Summary Judgment** should be granted.

The **Defendants WELLS FARGO BANK and CHASE BANK** have failed to respond and are in default.

The **Defendants BANK OF AMERICA, N.A. and BANK OF NEW YORK MELLON**, are debt collectors and have no Standing.

The **Defendant WELLS FARGO BANK, Defendant CHASE BANK and Defendant BANK OF AMERICA** are *all* shareholders of MERS.

This Court is not limited in its jurisdictional review and may review under pre-1933 and post-1933 Constitution, as well as, **Statutory and Equity Laws**.

The **Plaintiff** is entitled to relief under Statutory Laws and principles, **Equity Laws** and principles and under common law and the **Laws of The Creator**.

The **Defendants** bring forth no evidence, establish no Standing, and establish nothing regarding first-hand knowledge, nor present any original documents or proof.

Summary Judgment against *all* four **defendants** should be granted. In the alternative, **Plaintiff** requests she be granted a **Jury Trial**.

Respectfully submitted,

By: Susan Rebecca Cammack, feme sole

By: Susan Rebecca Cammack, feme sole, In propria persona

Plaintiff/Declarant
2165 Highway 39
Hunt, Texas [78024]

CERTIFICATE OF SERVICE

I, Susan Rebecca Cammack, feme sole, certify that a true and correct copy of the foregoing instrument has been served to the **Defendants** pursuant to Federal Rules of Civil Procedure, on this 13th day of November, 2017.

By: Susan Rebecca Cammack, feme sole

By: Susan Rebecca Cammack, feme sole, In propria persona
Plaintiff/Declarant

KATHRYN B. DAVIS/
Kathryn B Davis
WINSTON & STRAWN LLP
1111 Louisiana, 25th Floor
Houston, Texas 77002

DECLARATION/AFFIRMATION

I, Susan Rebecca Cammack, feme sole, do hereby Declare and Affirm that the information and evidence presented are true and correct, that I have first-hand knowledge, I am over the age of Eighteen (18), am of sound mind and capable of making this Declaration/Affirmation, so help me God.

By: Susan Rebecca Cammack, feme sole

By: Susan Rebecca Cammack, feme sole, In propria persona
Plaintiff/Declarant